

STAND. COM. REP. NO.

1217

Honolulu, Hawaii

APR 01 2013

RE: S.C.R. No. 92
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Madam:

Your Committee on Economic Development, Government Operations and Housing, to which was referred S.C.R. No. 92 entitled:

"SENATE CONCURRENT RESOLUTION REQUESTING THE COMPTROLLER TO ESTABLISH A TASK FORCE TO STUDY THE STATE PROCUREMENT CODE AND IDENTIFY AMENDMENTS THAT WOULD INCREASE THE ECONOMY, EFFICIENCY, EFFECTIVENESS, AND IMPARTIALITY IN THE PROCUREMENT OF PUBLIC WORKS CONSTRUCTION PROJECTS,"

begs leave to report as follows:

The purpose and intent of this measure is to improve the efficiency, effectiveness, and fairness of the public procurement process for publicly funded infrastructure projects by:

- (1) Requesting the Comptroller to establish a task force composed of various interested parties to determine the impact of the Hawaii Supreme Court's opinion in *Okada Trucking Co., Ltd. v. Board of Water Supply*, 97 Hawaii 450, 40 P.3d 73 (2002) on bid protests and whether, and to what extent, bid protests filed subsequent to *Okada* have affected publicly funded infrastructure projects;
- (2) Requesting the task force to identify and analyze ways to improve the economy, efficiency, effectiveness, and impartiality of publicly funded infrastructure projects; and
- (3) Requesting the task force to submit a report of its findings and recommendations, including any proposed



legislation, to the Legislature no later than twenty days prior to the convening of the Regular Session of 2015.

Your Committee received testimony in support of this measure from the Department of Education; Department of Transportation; Office of Hawaiian Affairs; General Contractors Association of Hawaii; Hawaii Laborers Employers Cooperation and Education Trust; Hawaii Procurement Institute; Ralph S. Inouye Co., Ltd; S & M Sakamoto, Inc.; and Tomco Corp. Your Committee received testimony in opposition to this measure from the Electrical Contractor's Association of Hawaii; Hawaii Iron Worker's Stabilization Fund; and Plumbing & Mechanical Contractors Association of Hawaii. Your Committee received comments on this measure from the Department of Accounting and General Services and Subcontractors Association of Hawaii.

Your Committee finds that the State Procurement Code must be reviewed to address concerns that have arisen with respect to its implementation and to make any necessary improvements. This measure will reach out to the interested parties in an effort to find the right regulatory balance and maintain an efficient, effective, and impartial procurement process.

Your Committee has amended this measure by:

- (1) Amending legislative findings, including but not limited to findings related to the State Procurement Office's mission and the public procurement code;
- (2) Deleting references to *Okada* and the listing of subcontractors, and inserting references to bid preferences;
- (3) Amending the membership of the task force to be established by the Comptroller;
- (4) Deleting language requesting the task force to determine the impact of the *Okada* decision on bid protests and the impacts that the bid protests have had for public works construction projects since 2002;
- (5) Inserting language requesting the task force to study the impacts that the procurement process has had for public works construction projects as well as the

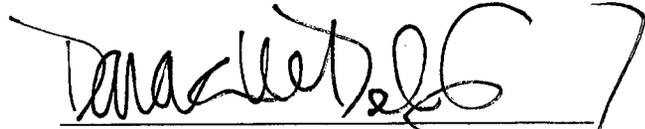


existing bid preferences in relation to promoting economy, efficiency, effectiveness, and impartiality in procurement for state and county governments;

- (6) Deleting authorization for reimbursement of expenses of task force members; and
- (7) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Economic Development, Government Operations and Housing that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 92, as amended herein, and recommends that it be referred to the Committee on Ways and Means, in the form attached hereto as S.C.R. No. 92, S.D. 1.

Respectfully submitted on
behalf of the members of the
Committee on Economic
Development, Government
Operations and Housing,


DONOVAN M. DELA CRUZ, Chair



